IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5689 OF 2005
IN
CRIMINAL APPEAL NO.63 OF 2005

Bhanudas Shankar Shingade & Ors. .. Applicants

Vs.

State of Maharashtra .. Respondent

Mr. V.M. Thorat for the applicants.
Ms. Usha Kejriwal, APP for State.

CORAM: S.S. PARKAR & ANOOP V. MOHTA,JJ.

Date : September 22, 2005.

P.C.:

1. Heard both sides at length. On behalf of the applicants the incident in question is not disputed but what is argued is that the accused were exercising their private defence of property as inspite of their purchasing the share of one Baliram, the brother of the complainant, they were not permitted to draw water from the well. The incident in question had taken place on 10/12/2002 because of the previous quarrel between the parties on 2/12/2002. The accused had obtained order of status quo by filing Suit in the Civil Court against the complainants and inspite of the order of the civil court to maintain status quo,

the accused were not allowed to draw water from the well and, therefore, the incident in question had taken place.

2. On behalf of the respondent-State it is pointed out that the blood of the deceased was found on the clothes of the accused nos.2 and 3 and there is evidence of injured eye witnesses about the assault by the accused persons. As it is, the incident in question and particularly the assault made by the accused cannot be disputed. Accused Nos.4 and 5, one of them being lady, had also received injury. It is pointed out on behalf of the defence that the incident had taken place near the well which was the property of the accused and, therefore, accused cannot be said to be aggressors.

3. Without going into the merits of the case but in view of the facts and circumstances of the case, we feel that it is desirable to release the applicants-accused, who are father and sons, on bail by putting condition on them. They were on bail during trial also.

4. In the result, this application is allowed and the applicants are directed to be released on bail on each of them furnishing surety in the sum of Rs.25,000/- on condition that they shall report to the concerned Police Station once in a month.

(S.S. Parkar,J.)

(Anoop V. Mohta,J.)